in exchange for gifts and a secret 4.9 percent share of UAces for The indictments were sought by U.S. attorneys in New Orlsans

actions," Jordan said.

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# The future on sale now.

50% off refurbished PrimeCo phones.

# Hurry. This is your last chance in '97.-

For the last time this year, you can get a state-of-the-art, 100% digital refurbished PrimcCo phone for just \$99. That's 50% off the price of a new phone. And you can always 500 Anytime Minutes a month until the year 2000 for \$49.95 a month. Some restrictions apply. Hurry to the PrimcCo Tent Sale on Thursday, October 16, and Friday, October 17, from 10 to 7, or Saturday, October 18, from 10 to 5. Quantities are limited and no rain checks will be given. New activation is required with purchase.

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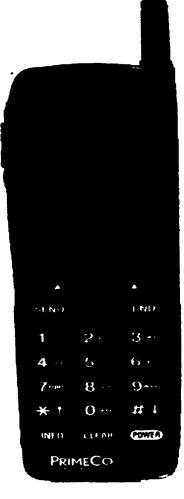
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### Emal Days for \$49.957500 Anytime Minutes





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old cellular phone
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Trade in and get up to \$100 in service credit.

### And ger 300 Anytime Monnies for just \$ 1995 a month.

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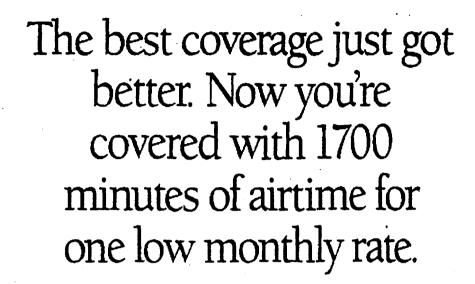
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Get 1700 minutes for just \$169 a month from BellSouth Mobility."

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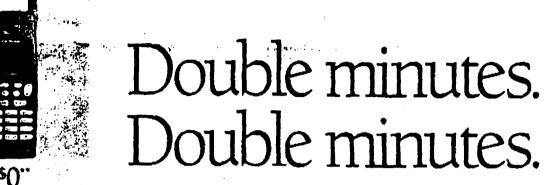


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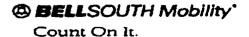
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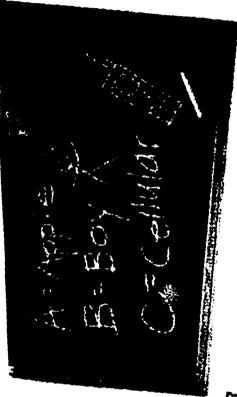
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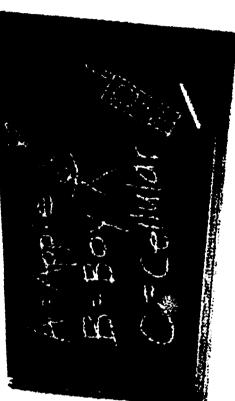
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- No monthly bill

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- Purchase a '30 prepaid calling card.
- Scratch off the activation number and you're ready to go.
- When you run out of minutes, simply activate a new card. It's that easy.



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# Want the largest cellular calling area for the lowest price? Simple.

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It's just that simple.

\$12.95

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# Press Release

### FOR IMMEDIATE RELEASE

# Five Million Strong For BellSouth Cellular Corp.

### Wireless Subscribers Grow to 50 Million Nationwide

ATLANTA, July 25, 1997 - As the wireless telecommunications industry celebrates its 50 millionth subscriber next week, one of the southeast's major corporations, BellSouth Cellular Corp. (BSCC) is celebrating a landmark achievement of its own - approaching the five million mark for wireless phone subscribers nationwide. With this milestone, BSCC, headquartered in Atlanta, becomes the wireless provider for 10 percent of the nation's wireless subscribers.

BSCC was formed in June, 1991 as parent company for BellSouth Mobility Inc (BMI) and American Cellular Communications Corporation (ACC). BellSouth Mobility began offering cellular phone service to consumers in Atlanta in May of 1984 - just months after the first commercial wireless phones went into service. BSCC signed its 100,000th subscriber in 1988 and reached the 1,000,000 mark in 1992. Now nearing five million subscribers, the telecommunications company based in the southeast is one of Georgia's largest employers.

"The growth experienced by BellSouth and the cellular telecommunications industry since 1983 has been nothing short of phenomenal," said Stan Hamm, group president, mobile systems at BellSouth Corporation. "We have achieved this milestone by providing our customers with the most reliable technology available and award winning customer service. By continuing with the same commitment to excellence, we will provide wireless service to millions more in the years ahead "

The first commercial wireless phones went into service in Chicago on October 13, 1983. Now, just 14 years later, there are 50 million customers in the U.S. By comparison, it took 24 years from the introduction of television before 50 million households had one. It took radio 39 years for radios to reach 50 million households. And it took 77 years for land-line phones to reach 50 million customers.

Other interesting wireless facts\*:

### Primary reasons for subscribing

- 46% able to communicate in an emergency
- 28% in touch while away from the office or home
- 12% personal safety
- 4% make calls when late
- More than 70 percent of all subscribers believe wireless phone service is improving.
- 35 percent of all wireless subscribers have used their phones during an emergency.
- 10% have used their phones to help others in an emergency
- 90% report they are more likely to help others because of their wireless phone
- American wireless phone users make more than 59,000 calls to 9-1-1- or other emergency numbers every day.

BellSouth Cellular Corp. companies provides wireless communications services to nearly 5 million customers in 216 markets owned by BellSouth and its partners in 15 states. BMI operates with its partners in eight Southeastern states. ACC markets operate under a variety of names in California, Hawaii, and Texas and as Cellular One in Illinois, Indiana,

Virginia and Wisconsin.

\*Source: Cellular Telecommunications Industry Association (CTIA)

Return to Press Release index.



Back to <u>BSCC Home Page</u>

# **ORIGINAL**

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# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

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**SEP 3 0 1996** 

Amendment to the Commission's Rules To Permit Flexible Service Offerings in the Commercial Mobile Radio Services	)	WT Docket No. 96-6 FEDERAL COMMUNICATIONS COMMISSING OFFICE OF SECRETARY
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To: The Commission

# PETITION FOR PARTIAL RECONSIDERATION OR CLARIFICATION

BellSouth Corporation ("BellSouth"), by its attorneys, hereby petitions for partial reconsideration or clarification of Amendment of the Commission's Rules to Permit Flexible

Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6, First Report and Order and Further Notice of Proposed Rulemaking, 11 F.C.C.R. 8965 (1996), summarized 61 Fed. Reg. 45336 (Aug. 29, 1996) ("Report and Order"). Although BellSouth applauds the Commission's efforts to permit all CMRS providers to use their spectrum for both mobile and fixed wireless applications, without restriction, it appears that Section 22.323 was inadvertently retained without change. Because this rule is inconsistent with the Report and Order, BellSouth requests that the Commission either (i) issue an Erratum eliminating the rule; (ii) reconsider its decision not to eliminate or modify the rule; or (iii) issue a declaratory ruling stating that Section 22.323 is inapplicable to CMRS licensees providing services pursuant to Section 22.901 or the Report and Order.

In the Report and Order, the Commission found that

The limitations in our rules governing the provision of fixed services on PCS and other CMRS spectrum have caused uncertainty among carriers. Although terms such as "ancillary," "auxiliary," and "incidental" are intended to provide licensees who offer CMRS services with flexibility, these terms are not defined in the rules and have been subject to varying

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interpretations. As a result of this lack of clarity, we have found that carriers are hesitant to take advantage of the flexibility allowed by the current rules to explore potential flexible uses of their spectrum without further guidance from the Commission.

11 F.C.C.R. at 8970 (emphasis added). To alleviate this uncertainty, the Commission stated that

[r]ather than continuing to define allowable fixed services in terms of whether they are "ancillary," "auxiliary," or "incidental" to mobile services, we conclude that our rules should more broadly allow fixed services to be provided on a co-primary basis with mobile services.

11 F.C.C.R. at 8973 (emphasis added). Consistent with this decision, Section 22.901(d) was amended to read as follows:

Alternative technologies and co-primary services. Licensees of cellular systems may use alternative cellular technologies and/or provide fixed services on a co-primary basis with their mobile offerings, including personal communications services (as defined in Part 24 of this chapter) on the spectrum within their assigned channel block. . . .

47 C.F.R. § 22.901(d). The Commission, however, failed to eliminate Section 22.323 which governs the provision of *incidental* communications services.

Section 22.323 states that Part 22 licensees may use their stations "to provide other communications services incidental to the primary public mobile service for which the authorizations were issued." 47 C.F.R. § 22.323. In order to provide such service, however, the following conditions must be satisfied:

- (a) The costs and charges of subscribers who do not wish to use the incidental services are not increased as a result of the provision of incidental services to other subscribers:
- (b) The quality of the primary public mobile service does not materially deteriorate as a result of provision of incidental services, and neither growth nor availability of the primary public mobile service is significantly diminished as a result of provision of incidental services:
- (c) The provision of the incidental services is not inconsistent with the Communications Act of 1934, as amended, or with FCC rules and polices; and

(d) The licensee notifies the FCC by letter before providing the incidental services. This notification must include a complete description of the incidental services.

47 C.F.R. § 22.323. Based on BellSouth's experience, this section has been applied to the provision of fixed services. Thus, unless it is deleted, it may have an effect on the provision of fixed services by Part 22 licensees. To avoid such a chilling effect, the Commission should eliminate the rule.<sup>1</sup>

As BellSouth has previously demonstrated, the notification requirement in Section 22.323(d) serves no practical purpose.<sup>2</sup> Specifically, the wireless industry would not jeopardize its mobile customer base (a segment growing at an estimated 30-40% per annum) by raising rates to mobile customers or decreasing quality as a result of providing fixed services to a relatively small and emerging segment. See 47 C.F.R. § 22.323(a). Because the marketplace is becoming increasingly competitive, any increase in rates or decrease in quality without a countervailing benefit to the mobile subscriber will encourage the subscriber to find another carrier.

Even if fixed applications became more prevalent, however, the Report and Order permits CMRS carriers to offer such services on a co-primary basis. Thus, there should be no notification requirement, just as there is no notification requirement for the provision of mobile services. Moreover, it may become impossible for a carrier to comply with the notification requirement since devices have become increasingly available to customers for use on a fixed basis without a carrier's knowledge.

Alternatively, the Commission should clarify that Section 22.323 does not apply to any services offered pursuant to Section 22.901 or the Report and Order.

<sup>&</sup>lt;sup>2</sup> Comments of BellSouth, CC Docket No. 92-115, Appendix 2 at 30 (Oct. 5, 1992).

### CONCLUSION

For the aforementioned reasons, BellSouth urges the Commission either (i) to issue an Erratum eliminating the rule; (ii) to reconsider its decision not to eliminate or modify the rule; or (iii) to issue a declaratory ruling stating that Section 22.323 is inapplicable to CMRS licensees providing services pursuant to Section 22.901 or the Report and Order.

Respectfully submitted,
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September 30, 1996

### CERTIFICATE OF SERVICE

I, M. Jeanette Trigeiro, hereby certify that I have, this 30th day of September, 1996, served a copy of the foregoing "Petition for Partial Reconsideration or Clarification," by First-Class United States Mail, postage pre-paid to the following:

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Commissioner Rachelle Chong Federal Communications Commission 1919 M Street, N.W., Room 844 Washington, D.C. 20554

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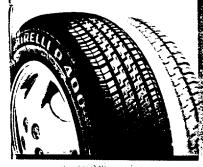
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# Who needs a cell phone?

CONFUSING PRICING SCHEMES CAN MAKE THESE CALLS AMONG THE MOST EXPENSIVE ON EARTH. WE SHOPPED FOR THE BEST DEALS IN 20 BIG METRO AREAS.

> hatting by cellular telephone is fast becoming one of the most pervasive symbols of the hustling Nineties. Nearly 40 million Americans now use a cell phone, and another 7 million or so new cellular service subscribers are expected to take to the airwaves over the coming year.

> > Cell-phone boutiques and kiosks are sprouting on nearly every Main Street and mall in the U.S. Cell phones have taken off faster than fax machines, faster than cable TV, and just as fast as the now

ubiquitous VCR. The 13-year-old

cellular industry's growth into adolescence has service providers eager to tap a vast new stream of revenues and profits. "We are that piece of the household ..... budget that didn't exist before, but is

now necessary—like the cable bill," says a senior marketing manager for Bell Atlantic Nynex Mobile, one of the nation's largest cellular service providers.

But cell phones don't come cheap. Labyrinthine pricing schemes can boost the cost of a minute of cellular airtime more than 10 times higher than that of conventional local and long-distance landline service. And unlike regular phone service, cellular service providers bill you for calls you receive as well as those you make. Then there's the question of what exactly you are buying. Warring ads for cellular service plans promote free phones, no activation fees, low monthly rates, and a bewildering array of perminute charges described in the arcane argot of the industry. (See "Cell-phone bills: A glossary," page 14.) Rapidly evolving, incompatible rival hardware technologies are confounding consumers trying to decide which kind of cell-phone service—and corresponding handset-to buy. (See "Cellular phones vs. PCS," page 12.) Choosing a regular long-distance telephone carrier is simple by comparison.

Would a cell phone make sense for you? And if you already have one, did you get the right kind of deal? This report will help you assess your needs, arrive at sensible decisions, and, if you still think you need cell service, find the best plans.

### Do you need a cell phone?

Start by asking yourself some basic questions: What do you plan to have cellular phone service for? And how much would you be willing to pay to

A decade ago, when a typical monthly cell-phone bill could easily run \$100 or more, it took a pretty powerful reason—or a big income—to warrant signing up for service. But as prices have dropped steadily—by some 50

percent on average since 1988—whole new categories of customers have begun signing on, many for personal rather than business purposes.

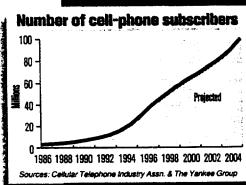
By far, the leading reason consumers give for signing up today is personal safety —the security of knowing that if you're the victim of a crime, involved in a car wreck, or stranded with a

breakdown on a lonely stretch of highway you're only a cell-phone call away from help. (See the pie chart on the facing page.) That safety appeal may be particularly strong among women; some 60 percent of new cellular service subscribers are female.

There's no denying the just-in-case value of cellular. In one dramatic example, when Nancy Shaw was blown from her desk by the Oklahoma City bombing, she fished her Southwestern Bell cell phone out of a drawer to tell her family-watching the horror on TV-that she and others had survived. "I wouldn't have traded my cellular phone for a million dollars that day," Shaw told CONSUMER REPORTS.

There are other sound reasons for wanting to pack a cell phone. An





IN SHORT

A cell-phone call can cost 10 times more per minute than a conventional longdistance call—and 60 times as much as some ads imply.

Our survey of cellular rates in 20 big markets found MCI One to be the highest-cost service provider for a typical user.

A low flat monthly rate may not always be the most economical choice. Evaluate a cellular phone plan carefully based on how you intend to use the service.

expectant mother, the principal caregiver of an invalid, or anyone who suffers from a potentially disabling chronic health condition may want the instant contact cell service provides.

Having a cellular phone does not give you ironclad protection, of course. Severe weather and natural disasters often knock out cellular antenna stations or jam them with too many callers trying to ring up at the same time. Moreover, cellular service covers just 60

**Reasons for getting** 

percent of the total geographic area of the U.S. I may not be available in the remote locales where you'd most need the phone to work in a crisis. What's more, if you have a tire blowout or a fender-bender while commuting, police say you're likely to find plenty of good Samaritans with cellular phones eager to call highway help for you.

Aside from safety, the other main personal reason to choose cell service is to stay in touch with work-before and after business hours-and for what industry insiders call life-style convenience, to connect with family

Lifestyle users want to check up on their children or let a spouse know they'll be late for dinner. And having a cell phone around can grow on those who planned to use the phone for emergencies only. "As they get more familiar and comfortable with the phone, they find uses for it," says Jon Slater, a vice president with GTE.

This can be expensive. Depending on the rate plan you select, a cellular call of just one minute can cost anywhere from 56 cents to \$1.43 versus just 20 cents at a standard pay phone.

### The selling of cellular

Cellular service providers know that many would-be subscribers, motivated by a combination of business, safety, or lifestyle concerns, need just a gentle push to sign up. They appear to have structured their offers to make the decision easy-and to mask how expensive their calling plans still are.

An ever-burgeoning number of retail outlets proffer "special" deals of low initial monthly costs that lock subscribers into contracts that are hard to escape, with allowances of included airtime that can turn out to be pretty expensive, or with promotions of cutrate cellular phone handsets. The brochures may not mention it, or it may be buried in the contractual fine print, but you pay for the low-cost hardware through the monthly access charge or a stiff early termination fee that can easily run to \$100 or more. Advertised per-minute rates as low as 2 cents can end up costing 60 times more when all fees and real usage patterns are accounted for.

The mind-boggling number of service plans the cellular companies promote may appear to offer a rich abundance of consumer choice. In fact, the various plans seem designed more to confuse, often in costly ways. In the greater New York metro region, for example, Bell Atlantic Nynex Mobile offers six different "Talk" plans, a "Talk Along" plan, two variants of "Talk Along Plus," and no fewer than three "EZ Max" options. In combinations almost too numerous to count, basic monthly access fees on this smorgasbord of plans range from \$14.95 up to \$299.99; per minute charges go from 10 cents to 99 cents. Total monthly costs will vary depending on when you place a call (during peak or off-peak hours), where you are

